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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/592,983	06/06/2008	Daniel Trost	KAR004-00031	7330

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EXAMINER	
BLACK, MELISSA ANN	

ART UNIT	PAPER NUMBER
3612	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/592,983	TROST, DANIEL	
	Examiner	Art Unit	
	MELISSA A. BLACK	3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 May 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11 and 13-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11,13-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *5/3/10*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to Amendments and remarks filed 03 May 2010. Claims 1-11 and 13-21 are pending in the application and rejected as set forth below.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-11, 13-17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat # 6,030,023 to Guillez in view of US Pat # 4,654,930 to Lautenschläger Jr. et al.

Re claims 1-11, 13-15, Guillez discloses an actuation device for a flap element (2)of a variable roof top receptacle having at least one wall element (2) that is pivotable between a first and a second position (see figure 3), wherein the actuation device comprises a spring element (14) that is arranged and constructed to traverse a point of maximum elastic deformation between its first and second position by interacting with the wall element during pivoting of the wall element (2). Re Claim 16, Guillez further discloses a stowable top movably disposed on a body of the vehicle, a receptacle at least partially disposed in a rear portion of the vehicle body, wherein the receptacle defines a volume that is variable by pivoting a wall element (2) thereof between a first position defining a maximum receptacle volume and a second position defining a minimum receptacle volume, wherein the receptacle is arranged and constructed to accommodate the stowable top (3) in the first position and an actuation device comprising a spring element (14) having a first end fixedly coupled to one of the vehicle body (10) and a rear truck lid (1) pivotably coupled to the vehicle body, the spring element (14) being arranged and constructed to

contact the wall element (2 via 8) at least during pivoting movement of the wall element (2) and to traverse a point of maximum elastic deformation of the spring element between the first and second position of the wall element, and the first end of the spring element remains stationary during the pivoting movement of the wall element (2).Re Claim 21, Guillez further discloses A device configured to, at least in part, vary the size of a convertible top receptacle comprising: a wall element pivotable between a first position and a second position, and a spring interacting with the wall element, wherein the spring is configured to traverse a point of maximum elastic deformation during pivoting of the wall element between the first and second positions.

Re claims 1-11, 13-17 and 21, Guillez fails to disclose wherein the spring element is arranged and constructed so as to assume a substantially undeformed state in each of the first and second positions and one end of the spring element is stationary during pivoting of the wall element between the first and second positions, wherein the spring element is arranged and constructed such that the restoring force of the spring element is substantially at a minimum when the wall element is disposed in the first position and the second position, respectively, wherein the spring element is a leaf spring, a fixed bracket, wherein the one end of the leaf spring is substantially rigidly supported on the bracket in a longitudinal direction of the leaf spring and another end of the leaf spring is movably supported in the longitudinal direction of the leaf spring, wherein the leaf spring includes two legs connected via a curved portion, wherein the curved portion is arranged and curved such that its curvature lies within an angle (a) traversed by the wall element during its pivoting movement and wherein the middle point of its radius of curvature and the pivotal axis of the wall element lie on opposing sides of the leaf spring element is arranged and constructed to cooperate with a lever element that is fixedly disposed on the wall

element, wherein the lever element is affixed to the wall element proximal to the pivotal axis of the wall element, wherein the lever element is cam-shaped, wherein the point of maximum deflection of the spring element lies substantially at the bisecting line of the angle (a) between the first and second positions of the wall element., wherein the spring element elastically biases the wall element at least in one of the first position and the second position, wherein the leaf spring includes two legs connected via a curved portion, wherein the curved portion is arranged and curved such that its curvature lies within an angle (a) traversed by the wall element during its pivoting movement and wherein the middle point of its radius of curvature and the pivotal axis of the wall element lie on opposing sides of the leaf spring, wherein the spring element is arranged and constructed to cooperate with a lever element that is fixedly disposed on the wall element and the lever element is affixed to the wall element proximal to the pivotal axis of the wall element.

Lautenschläger Jr. et al teaches an actuation device for a flap element (12) having at least one wall element that is pivotable between a first and a second position (figures 1 and 2), wherein the actuation device comprises a spring element (34) that is arranged and constructed to traverse a point of maximum elastic deformation between its first and second position by interacting with the wall element during pivoting of the wall element and wherein the spring element (34) is arranged and constructed so as to assume a substantially unbiased undeformed state (see figures 1 and 2) in each of the first and second positions and one end (34b) of the spring element is stationary during pivoting of the wall element between the first and second positions, wherein the spring element is arranged and constructed such that the restoring force of the spring element is substantially at a minimum when the wall element is disposed in the first

position and the second position, respectively, wherein the spring element is a leaf spring, a fixed bracket (20), wherein the one end of the leaf spring is substantially rigidly supported on the bracket in a longitudinal direction of the leaf spring and another end of the leaf spring is movably supported in the longitudinal direction of the leaf spring, wherein the leaf spring includes two legs (34a, 34b) connected via a curved portion (see figure 1), wherein the curved portion is arranged and curved such that its curvature lies within an angle (a) traversed by the wall element during its pivoting movement and wherein the middle point of its radius of curvature and the pivotal axis of the wall element lie on opposing sides of the leaf spring element is arranged and constructed to cooperate with a lever element (30) that is fixedly disposed on the wall element, wherein the lever element (30) is affixed to the wall element proximal to the pivotal axis of the wall element, wherein the lever element is cam-shaped, wherein the point of maximum deflection of the spring element lies substantially at the bisecting line of the angle (a) between the first and second positions of the wall element., wherein the spring element elastically biases the wall element at least in one of the first position and the second position, wherein the leaf spring includes two legs connected via a curved portion, wherein the curved portion is arranged and curved such that its curvature lies within an angle (a) traversed by the wall element during its pivoting movement and wherein the middle point of its radius of curvature and the pivotal axis of the wall element lie on opposing sides of the leaf spring, wherein the spring element is arranged and constructed to cooperate with a lever element (30) that is fixedly disposed on the wall element (12, via 22) and the lever element is affixed to the wall element proximal to the pivotal axis of the wall element (see figures 1 and 2).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to us the hinge and spring device as taught by Lautenschläger Jr. et al on the device of Guillez for it is a mere exchanging of spring devices and would have been obvious to attempt to use on the device of Guillez in order to attempt to control the movement of the wall device.

4. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat # 6,030,023 to Guillez as modified by US Pat # 4,654,930 to Lautenschläger Jr. et al. in view of DE 197 13 606 C1 to Siring.

RE claim 18, Guillez as modified discloses that the first end of the leaf spring is substantially rigidly supported on the bracket in a longitudinal direction of the leaf spring and a second end of the leaf spring is movably supported in the longitudinal direction of the leaf spring.

Guillez as modified fails to disclose wherein the actuation device further comprises a bracket fixedly mounted on a rear trunk lid.

Siring teaches that the bracket (near 9) mounted on a trunk lid for wall element (3) to pivot (see figure 1).

It would have bee obvious to one with ordinary skill in the art at the time the invention was made to move the bracket to the trunk lid as taught by siring on the device Guillez, for it is a mere relocation of parts and would require little to no skill in the art for Guillez would still be able to function properly.

Re Claims 19 and 20, The details of these two claims are discussed under the above rejection as being obvious under Guillez in view of Lautenschläger Jr. et al, for Guillez as modified by Lautenschläger Jr. et al disclose the lever element. Please see above.

Response to Arguments

5. Applicant's arguments with respect to claims 1-11, 13-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA A. BLACK whose telephone number is (571)272-4737. The examiner can normally be reached on M-F 7:00-3:30 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GLENN DAYOAN/
Supervisory Patent Examiner, Art Unit 3612

/Melissa A Black/
Examiner, Art Unit 3612